

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

CASE NUMBER:

OMAR DAHLA, SAMER DAHLA, and
FARIDE DAHLA

I, Daniel Durkin, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief. Beginning no later than April 2001 and continuing through in at least May 2006, in Cook County, in the Northern District of Illinois, and elsewhere, defendants did

together with others, devise, intend to devise and participated in a scheme and artifice to defraud the State of Illinois, of money and property, by means of materially false and fraudulent pretenses, representations, and promises; and for the purpose of executing the scheme, caused the use of the United States Mails from Chicago, Illinois to Springfield, Illinois

in violation of Title 18 United States Code, Section 1341.

I further state that I am a Special Agent of the Bureau of Alcohol, Tobacco, and Firearms and that this complaint is based on the following facts:

See attached affidavit

Continued on the attached sheet and made a part hereof: X Yes No

Signature of Complainant

Sworn to before me and subscribed in my presence,

June 1, 2006 at Chicago, Illinois

JEFFREY COLE, MAGISTRATE JUDGE

Name & Title of Judicial Officer

Signature of Judicial Officer

STATE OF ILLINOIS)
)
COUNTY OF COOK)

UNDER SEAL

AFFIDAVIT

I, Daniel Durkin, being duly sworn, state the following:

I. INTRODUCTION

1. I am currently employed as a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, and have been so employed for five years.

2. I attended the Bureau of Alcohol, Tobacco, Firearms and Explosives National Academy, where I received training in the investigation of alcohol, tobacco, firearms and related offenses. I also completed the Criminal Investigator Training Program at the Federal Law Enforcement Training Center. In addition, I have worked on several investigations involving the illegal sales and diversion of cigarettes and other tobacco products (“OTP”), such as chewing tobacco, snuff, pipe tobacco, and cigars.

3. The information contained in this affidavit is based on my personal knowledge and information provided by other law enforcement officers, including agents of the Illinois Department of Revenue (“IDOR”), and by a confidential informant (“CI-1”). This affidavit does not contain all the information I know regarding this investigation, and is for the sole purpose of establishing probable cause for:

(i) **SEARCH WARRANTS** for the following:

a) a business, UNITED BROTHERS FIVE, consisting of an office and two warehouses at 5301 W. 65th Street, units H and J, Bedford Park, Illinois, as described more fully in Attachment A-1; and

b) a Federal Express envelope, Tracking No 855044000247, from UNITED BROTHERS FIVE, addressed to MAIN STREET TOBACCO, at 4940-4942 Distribution Drive, Tampa, Florida, as described more fully in Attachment A-2.

(ii) **CRIMINAL COMPLAINTS** for the following individuals:

- a) OMAR DAHLA;
- b) SAMER DAHLA; and
- c) FARIDE DAHLA.

(iii) **SEIZURE WARRANTS** for the following:

- a) all funds in a checking account, held in the name of TOBACCO ISLAND, at Bank of America, Account No. 003670203360
- b) all funds in a checking account, held in the name of TOBACCO ISLAND, at Washington Mutual, Account No. 185-125526-6; and
- c) OTP stored at UNITED BROTHERS FIVE.

4. Based on the information stated more fully below, there is probable cause to believe that evidence showing violations of Title 18, United States Code, Section 1341 (mail fraud) and Title 18, United States Code, Sections 1956(a)(1)(A)(i), 1956(a)(3) and 1957 (money laundering) is located at: (1) UNITED BROTHERS FIVE; and (2) a Federal Express envelope, Tracking No 855044000247, from UNITED BROTHERS FIVE, addressed to MAIN STREET TOBACCO, at 4940-4942 Distribution Drive, Tampa, Florida, as described more fully in Attachment A-2.

5. Further, based on the information stated more fully below, there is probable cause to believe that OMAR DAHLA, SAMER DAHLA and FARIDE DAHLA through their ownership and/or operation of UNITED BROTHERS FIVE and TOBACCO ISLAND and MAIN STREET TOBACCO participated in a mail fraud scheme to defraud the IDOR, in violation of Title 18, United States Code, Section 1341.

6. Further, based on the information stated more fully below, there is probable cause to believe that the following funds and property:

a) a checking account, held in the name of TOBACCO ISLAND, at Bank of America, Account No. 003670203360;

b) a checking account, held in the name of TOBACCO ISLAND, at Washington Mutual, Account No. 185-125526-6; and

c) OTP stored at UNITED BROTHERS FIVE

constitute or are derived from proceeds of mail fraud in violation of 18 U.S.C. § 1341 and are thus subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c). Further, there is probable cause to believe that the aforementioned funds and property constitute property involved in money laundering in violation of 18 U.S.C. §§ 1956 & 1957 and thus are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), as well as 18 U.S.C. § 982(a)(1).

7. As detailed below, the investigation to date has revealed that from at least 2003 and continuing into May 2006, OMAR DAHLA and SAMER DAHLA, with the assistance of various family members including, among others, their brother FARIDE DAHLA, Individual A, and Individual B, have conducted a mail fraud scheme designed to defraud the State of Illinois of millions of dollars in excise tax revenue from the taxable sales of OTP. By and through their OTP distribution business in Illinois, UNITED BROTHERS FIVE, the DAHLAs, while using the United States mails, have grossly under-reported to the IDOR the amount of taxable OTP sales to retailers and consumers in the State of Illinois, and have therefore not paid the IDOR the corresponding OTP tax such sales.

8. In furtherance of the fraudulent scheme, the DAHLAs made frequent taxable sales of OTP to Illinois retailers and consumers. They further have diverted all cash proceeds from such

sales to the structured purchase of money orders which they sent by express mail courier to Florida for deposit into the Florida checking account of TOBACCO ISLAND, another OTP distribution business owned and operated by the DAHLAs, all for the purpose of evading the full payment of the applicable 18% tax that the State of Illinois imposes on the sale of OTP to retailers and consumers in Illinois. Portions of the scheme proceeds deposited into the Florida accounts of TOBACCO ISLAND were used to fund the further purchase of OTP to promote the scheme through subsequent sales of OTP, while other portions of the scheme proceeds were diverted to the personal use of various of the DAHLAS.

II. BACKGROUND

A. OTP Distribution Companies Owned and Operated by the Dahlas

1. United Brothers Five

9. Illinois Secretary of State filings and IDOR administrative inquiries reflect that members of the Dahla family have been engaged in the sale of OTP to Chicago area retailers and consumers dating back to the at least 2001 through their ownership and operation of a succession of corporate entities. Illinois Secretary of State corporate filings reflect Dahla family ownership and operation of Beitunia Enterprises dating back to its incorporation in November 1994. Beitunia Enterprises was incorporated by SAMER DAHLA, who was listed as the president and registered agent of the corporation. Beginning in or about January 2000, the Dahlas began to conduct their business activities through Beunion Enterprises, a registered Illinois corporation that listed OMAR DAHLA as corporate president. Since in or about December 2004, the Dahlas have conducted business in the State of Illinois through their ownership and operation of UNITED BROTHERS FIVE, which was incorporated at that time and has made various filings with State of Illinois

agencies listing OMAR DAHLA and SAMER DAHLA as the registered owners. Both public filings with Illinois State agencies and IDOR administrative investigation, including periodic surveillance and interviews dating back to 2001, reflect that all three corporate entities under which the Dahalas have operated, (which will be referred to hereinafter as UNITED BROTHERS FIVE) have been located and done business at 5301 W. 65th Street, Bedford Park.

10. Since at least 2001, UNITED BROTHERS FIVE has conducted its affairs specifically from 5301 W. 65th Street, Bedford Park, including units H and J which are two storage warehouses (Units H and J) as well as an office within Unit H at the W. 65th Street location. During the course of this investigation, agents have observed OMAR DAHLA and FARIDE DAHLA conducting the business of UNITED BROTHERS FIVE from the 5301 W. 65th Street, Bedford Park location. As recently as May 31, 2006, agents observed that UNITED BROTHERS FIVE remains in business at its Bedford Park facility. Over the course of this investigation, since in or around 2001, the entity now known as UNITED BROTHERS FIVE has changed its name three different times and has had three different business checking accounts.

2. Tobacco Island

11. TOBACCO ISLAND is a corporation that engaged in the business of OTP sales since in or about the time of its incorporation with the Florida Secretary of State in February 2001 through at least April 2006. OMAR DAHLA and SAMER DAHLA are listed in State of Florida records as the registered owners of TOBACCO ISLAND. Subpoenaed bank records and State of Florida administrative records show that from in or about 2003 until the end of April 2006, the business address of TOBACCO ISLAND was 3115 Drain Field Road, Units 18-19, in Lakeland, Florida. According to State of Florida officials who have visited the location, the facility at that address

includes a warehouse and an office. SAMER DAHLA, who according to public source and State of Florida agency records presently resides in Florida, operated TOBACCO ISLAND from its facility in Lakeland, Florida through April 2006. At the end of April 2006, TOBACCO ISLAND closed its Lakeland, Florida facility. Over the course of this investigation, since in or around 2001, TOBACCO ISLAND has changed its business address on two occasions, and had two different business bank accounts. On April 28, 2006, the United States Postal Service received a change of address form for TOBACCO ISLAND and “Sam DAHLA” reflecting that the new mailing and mail forwarding address of TOBACCO ISLAND to be 2477 Colonel Ford Drive, Lakeland, Florida, which is SAMER DAHLA’s home address.

3. Main Street Tobacco

12. On April 17, 2006, the State of Florida issued a Cigarette Wholesale Distributor (“CWD”) license and a Tobacco Wholesale Distributor license to “Main Street Tobacco, Inc.” (“Main Street Tobacco”). The application for the CWD license states that SAMER DAHLA is the president and ninety percent owner of Main Street Tobacco (with Individual C listed as Vice President and ten percent owner). The license states Main Street Tobacco business address as 4940-4942 Distribution Drive, Tampa, Florida. The license states a mailing address of 2477 Colonel Ford Drive, Lakeland, Florida, which other State of Florida records indicate is the home address of SAMER DAHLA.

13. On March 21, 2006, Main Street Tobacco signed a lease, for the period May 1, 2006, through April 30, 2007, for the premises at 4940-4942 Distribution Drive, Tampa, Florida. The lease states that Main Street Tobacco is the “Tenant” and that TOBACCO ISLAND is the “Guarantor,” and is signed by the “Tenant” (Main Street Tobacco), “Sam” DAHLA, as “President,”

and by the “Guarantor” (Tobacco Island, Inc), Sam DAHLA, as “President.” The lease shows that tobacco, cigars, cigarettes and novelty products will be stored on the premises.

B. THE OTP TAX: ILLINOIS and FLORIDA

1. Summary of the Illinois OTP Tax Statute

a. Licensing of OTP Distributors (IL)

14. OTP distributors in the State of Illinois, such as UNITED BROTHERS FIVE, are required to obtain a license from the IDOR to distribute OTP. A distributor is required to renew its license annually and is required to prominently display its license in its place of business.

b. Bond Requirement (IL)

15. Upon filing an application for a license, an OTP distributor also is required to file a bond conditioned upon compliance by the licensee of all OTP tax requirements. IDOR fixes the amount of the bond for each applicant based on the applicant OTP distributor’s estimate of anticipated taxable OTP sales.

c. OTP Tax (IL)

16. The State of Illinois assesses an 18% excise tax on the wholesale price of OTP sold to retailers or consumers located in Illinois. *See* 35 ILCS 143/10-10 *et seq.* (“the Illinois OTP Tax Statute”). The liability for the excise taxes on the sale of OTP arises when an OTP distributor, such as a wholesaler, sells the product to a retailer or consumer in Illinois. An OTP distributor is required to charge and collect the applicable OTP excise taxes on sales to retailers an/or consumers. By the 15th day of each month, the OTP distributor is required to file a report of all OTP sales the prior month and to report and pay over to IDOR the excise taxes owing on those sales. When the OTP

tax liability due to the IDOR is \$300 or more, an OTP distributor that files or causes to be filed a fraudulent return is guilty of a felony under Illinois law.

17. Purchases of OTP by distributors and retailers for delivery outside Illinois are exempt from the Illinois OTP tax. The OTP distributor is required, however, to document any sale of OTP that is exempt from the OTP tax by obtaining from the purchaser a certification containing certain information, including the seller's name and address, the purchaser's name and address, the date of purchase, the purchaser's signature, the purchaser's tobacco products tax license number, and a statement that the purchaser is purchasing for resale other than for sale to consumers or is purchasing for delivery outside of Illinois. The OTP distributor also is required to report and account for all exempted sales in its monthly submission to IDOR.

e. Maintenance of Records (IL)

18. An OTP distributor in Illinois is further required to maintain complete and accurate records of OTP held, purchased, brought in from out of state, and sold, including invoices, bills of lading, sales records, and copies of bills of sale. An OTP distributor is also required to prepare an inventory of OTP as of December 31st of each year or as of the last day of the distributor's fiscal year. An OTP distributor that purchases OTP for shipment into Illinois from a location outside Illinois is required to complete, maintain and, if requested by the IDOR, submit, a copy of invoices of such invoices to the IDOR.

19. The records that an OTP distributor is required to maintain are subject to inspection by the IDOR. Any duly authorized employee of the IDOR has the authority to inspect without a warrant all OTP in a distributor's place of business and may seize the OTP that is held or sold in violation of the OTP statute.

2. Summary of the Florida OTP Tax Statute

a. OTP Tax (FL)

20. The State of Florida assesses a 25% excise tax on the wholesale price of OTP, except cigars. *See* Fl. Stat. Ann. 210.30 *et seq.* (“the Florida OTP Tax Statute”). The liability for the excise taxes on such OTP arises at the time the distributor: (1) brings or causes to be brought OTP into Florida from outside Florida for sale; (2) makes or manufactures OTP for sale in Florida; and (3) ships or transports the OTP to retailers in Florida for sale in Florida.

b. Filing of Monthly OTP Tax Returns (FL)

21. An OTP distributor is required, by the 10th day of each month, to file a return with the Florida Department of Alcohol and Tobacco showing the taxable price of each OTP brought or caused to be brought into Florida for sale, or made, manufactured, or fabricated in Florida for sale in Florida, during the preceding month. Every OTP distributor is required to file a return showing the quantity and taxable price of each tobacco product shipped or transported to retailers in Florida, during the preceding month. An OTP distributor is required pay the full tax liability upon the filing of each monthly return.

c. Maintenance of Records (FL)

22. A Florida OTP distributor is further required to maintain for three years complete and accurate records of OTP held, purchased, brought in from out of state, and sold, including invoices, bills of lading, sales records, and copies of bills of sale. Any duly authorized employee of the Florida Department of Alcohol and Tobacco has the authority to inspect the premises, including the records maintained and the OTP held.

3. Knowledge of Illinois OTP License and Tax Requirements by the Dahlas and United Brothers Five

23. On June 26, 2001, IDOR Special Agent Jim Lipner visited the 5301 W. 65th Street, Bedford Park location of UNITED BROTHERS FIVE, then operating under the name BEITUNIA, and interviewed OMAR DAHLA. In summary, OMAR DAHLA stated that BEITUNIA sold general merchandise to retail stores. OMAR DAHLA further said that BEITUNIA also sold cigarettes and cigars that it purchased from OTP supplier EBY Brown. Agent Lipner advised OMAR DAHLA that if BEITUNIA wanted to sell OTP, it would have to register with the State of Illinois and pay the applicable OTP tax.

24. On March 22, 2002, IDOR Special Agent Lipner met with OMAR DAHLA at the 5301 W. 65th Street, Bedford Park facility of BEITUNIA where he observed boxes of OTP from several known OTP suppliers, including, among others, Harold Levinson, Republic Tobacco, Swisher, and Altadis USA. OMAR DAHLA claimed that he previously submitted an OTP application and the required bond to the State of Illinois, but the application was denied, a claim that subsequent review of IDOR revealed to be false.

25. More specifically, IDOR records reflect that neither UNITED BROTHERS FIVE nor its predecessor entities, Beitunia Enterprises and Beunion Enterprises, nor any of the Dahlas, applied for or received an OTP license from IDOR until February 2005, notwithstanding the aforementioned admissions of their having engaged in the sale of such products since at least 2001. IDOR records reflect that on January 24, 2005, UNITED BROTHERS FIVE, by and through SAMER DAHLA, filed an application for an OTP license in which it stated itself to be a “wholesale distributor.” Based on that application, IDOR issued an OTP distributor license to UNITED BROTHERS FIVE in or around February 2005. In September 2005, the IDOR sent UNITED BROTHERS FIVE a

letter advising UNITED BROTHERS FIVE that its OTP license would expire on February 1, 2006. UNITED BROTHERS FIVE did not file a timely application for renewal. On April 3, 2006, UNITED BROTHERS FIVE renewed its OTP license with the IDOR, effective through February 1, 2007.

III. THE MAIL FRAUD SCHEME

A. OVERVIEW OF THE SCHEME

26. Since no later than in or around 2003 and continuing to the present, the DAHLA's, through their operation of UNITED BROTHERS FIVE, have engaged in a scheme involving the use of mails to fraudulently deprive the State of Illinois of excise tax revenues on the sales of OTP. In furtherance of the scheme, OMAR DAHLA or SAMER DAHLA have placed, or caused to be placed, telephone or facsimile orders to OTP suppliers located outside the State of Illinois and outside the State of Florida for the purchase and delivery of OTP to UNITED BROTHERS FIVE in Illinois, or to TOBACCO ISLAND in Florida. The OTP thereafter was shipped either directly or via TOBACCO ISLAND to the UNITED BROTHERS FIVE facility in Bedford Park, Illinois. The DAHLA's then sold the OTP out of the UNITED BROTHERS FIVE warehouse/office facility to Chicago area retailers or consumers. Payment was received in various forms, but principally in cash and checks. As detailed further below, checks or other commercial paper received for the sale of OTP were deposited by UNITED BROTHERS FIVE and/or one of the DAHLAS in the checking account, Account No. 610112008, held in the name of BEUNION at MidAmerica Bank. As set forth in greater detail below, investigation to date has revealed that monthly aggregate deposits of this nature ranged from approximately \$140,000 to \$490,000 for analyzed periods dating back to June 2003 up through February 2006.

27. Cash proceeds from the sale of OTP by the DAHLAs and UNITED BROTHERS FIVE, which are believed to constitute the majority of OTP sales by UNITED BROTHERS FIVE were not deposited into financial institution accounts. Instead, OMAR DAHLA and FARIDE DAHLA diverted the cash to the structured purchase of money orders from multiple currency exchanges or money remitters in the Chicago area. The structured purchases were made variously by OMAR DAHLA, FARIDE DAHLA, and Individual A and Individual B acting at the direction of OMAR DAHLA and FARIDE DAHLA. The money orders purchased by this method were expressly mailed to SAMER DAHLA in Florida once every week or so. The money orders were later deposited into TOBACCO ISLAND's Bank of America checking account, No. 003670203360 and TOBACCO ISLAND's Washington Mutual checking account, No. 185-125526-6. As set forth in further detail below, deposits to these accounts for analyzed periods between June 2003 and February 2006 consisted principally of money orders and cashier's checks purchased from Illinois-based money remitters, with aggregate monthly deposits ranging from approximately \$600,000 to nearly \$2.0 million.

28. The cash proceeds were diverted, converted and directed to Florida in this fashion to disguise the large amount of taxable OTP sales that occurred in Illinois and thus evade the 18% excise tax owed to the State of Illinois on all such sales which were not reported in false and fraudulent monthly returns the DAHLA's and UNITED BROTHERS FIVE filed with through use of the mails.

B. THE SCHEME

1. The Purchase of OTP by United Brothers Five and the Dahlas

a. By UNITED BROTHERS FIVE

29. Since at least 2003 through at least April 2006, UNITED BROTHERS FIVE has consistently ordered large volumes of OTP from OTP suppliers. For example, subpoenaed records from U.S. Freight, an interstate shipping company, for the period February 2005 through March 2005 show that seven shipments of over 11,000 pounds of OTP were shipped directly from an OTP supplier, Alhamrah Corporation, to UNITED BROTHERS FIVE. Records obtained via grand jury subpoena from T-Mobile show that during the period January 2005 through April 2005, the cell phone subscribed to OMAR DAHLA placed several calls to OTP suppliers, including Alhamrah. As further example, a March 2, 2005, interview conducted with a representative of OTP supplier Harold Levinson Associates (“Levinson”), revealed that OMAR DAHLA, acting through an agent (“Agent A”) placed OTP orders via either telephone or facsimile with Levinson during the period of March and April 2005. Records from T-Mobile show phone calls from OMAR DAHLA’s cell phone to Agent A and to Levinson directly.

b. By TOBACCO ISLAND

30. In addition to direct purchases, UNITED BROTHERS FIVE also purchased large volume of OTP through orders placed by SAMER DAHLA and TOBACCO ISLAND in Florida. For example, on or about September 30, 2004, a representative of OTP distributor Swisher Tobacco informed ATF that an unidentified representative of TOBACCO ISLAND had placed orders for OTP via either telephone or facsimile. Subpoenaed records from Swisher Tobacco, an OTP supplier, show that the time period/scale-volume of orders were placed by SAMAR DAHLA, that

SAMER DAHLA is the contact person for TOBACCO ISLAND, and that orders were later completed via delivery.

c. Payment for OTP By United Brothers Five and the Dahlas

31. Financial institution records gathered and analyzed by the investigation to date for periods between April 2004 and February 2006 for the TOBACCO ISLAND accounts at Bank of America and Washington Mutual, and the UNITED BROTHERS FIVE account at MidAmerica Bank dating back to April 2004 for the account of UNITED BROTHERS FIVE, confirm regular purchases of large volumes of OTP from national OTP distributors and suppliers, such as the aforementioned Alhamrah, Levinson and Swisher. For example the TOBACCO ISLAND Bank of America account records show approximately \$3,345,786.00 in payments from TOBACCO ISLAND to OTP suppliers, including Republic Tobacco, Inter-Continental Cigar Company, Swedish Match Cigars, and Altadis USA for the period March 2005 through April 2005 alone. More recently, the records for the same account for the period January 2006 through February 2006 show approximately \$500,000 in payments to OTP suppliers, including Altadis, Republic, and Land Limited. Records for TOBACCO ISLAND's Washington Mutual account for January 2006 show approximately \$20,000 in electronic payments from to OTP suppliers, including Inter Continental Cigar Co. and Swedish Match Cigar Inc. Similarly, records for the BEUNION account at MidAmerica Bank for the same March 2005 through April 2005 period show an additional \$462,414 in payments from UNITED BROTHERS FIVE to OTP suppliers, including Alhamrah and Levinson.

2. Delivery of Wholesale Quantity OTP To Bedford Park Warehouse Facility

a. Interstate Shipping Records Reflecting Delivery

32. Interstate shipping records obtained and analyzed by the investigation to date further reflect the delivery and receipt of large volumes of OTP to the Bedford Park facility of UNITED BROTHERS FIVE either directly from national or regional OTP suppliers, or indirectly in the form of OTP transhipped through TOBACCO ISLAND in Florida. For example, subpoenaed records from U.S. Freight, an interstate shipping company, for the period February 2005 through March 2005 reflect seven shipments of over 11,000 pounds of OTP directly from OTP distributor Alhamrah Corporation to UNITED BROTHERS FIVE at the Bedford Park warehouse facility. Similarly, the shipping records of Goldcoast Freightways, an interstate shipping company, for the period January 2005 through April 2005, show that eighteen shipments of over 375,000 pounds of OTP were shipped from TOBACCO ISLAND in Florida to UNITED BROTHERS FIVE at the Bedford Park warehouse facility. Records reflect an additional 35 shipments from TOBACCO ISLAND by Goldcoast Freightways of over 200 skids of OTP to UNITED BROTHERS FIVE at the Bedford Park warehouse facility from May through December of 2005.

33. SAMER DAHLA has acknowledged TOBACCO ISLAND's extensive shipment of OTP to UNITED BROTHERS FIVE during a September 6, 2005 interview with agents of the State of Florida Department of Alcohol and Tobacco conducted at TOBACCO ISLAND's facility at 3115 Drain Field Road in Lakeland, Florida. SAMER DAHLA stated that the majority of TOBACCO ISLAND's OTP was sent to BEUNION (aka UNITED BROTHERS FIVE). In response to direct questioning, SAMER DAHLA indicated TOBACCO ISLAND had no other customers. In conducting the interview, the agents observed that TOBACCO ISLAND's facility at 3115 Drain

Field Road in Lakeland, Florida consisted of two warehouses filled with boxes of OTP and an office that contained two desks, bookshelves, file cabinets, and scattered paperwork, including sales books and invoices.

b. Undercover Surveillance of Offloading of OTP

34. Additionally, the delivery of large volumes of OTP to the Bedford Park warehouse facility of UNITED BROTHERS FIVE has been confirmed through undercover surveillance conducted during the investigation. On several occasions from January 2005 through early 2006, I conducted surveillance of UNITED BROTHERS FIVE's warehouse, Unit H, and observed tractor-trailers make deliveries to Unit H of BROTHERS FIVE UNITED's warehouse facility. Additionally, on March 3, 2006, IDOR Special Agent James Lippner, while standing in a public walkway within the Bedford Park warehouse facility, observed three individuals engaged in the unloading of clearly-marked boxes of OTP from a trailer onto a pallet which he observed being wheeled into the rear of unit J which is leased by UNITED BROTHERS FIVE.

3. OTP SALES BY UNITED BROTHERS FIVE

a. Surveillance of OTP Sales Activity

35. On several occasions from January 2005 through early 2006, I conducted surveillance of UNITED BROTHERS FIVE's warehouse and observed individuals arrive in cargo vans, later exit the warehouse with from one to ten boxes of OTP, load the boxes into the vans, and depart, including, for example, the following:

- i. On February 28, 2005, for instance, I observed three individuals leaving UNITED BROTHERS FIVE's facility with handcarts that contained five boxes on it and load the boxes into three vehicles. Later that day, I observed individuals load boxes that indicated they contained OTP into a gray Dodge minivan and a maroon Nissan minivan, both of which had Illinois license plates.

- ii. On several occasions during the morning of August 17, 2005, I observed individuals load several boxes of clearly labeled OTP into various vehicles.
- iii. On February 2, 2006, and February 9, 2006, I observed numerous individuals arrive at UNITED BROTHERS FIVE's warehouse, later exit with several boxes of OTP, and load the boxes into their vehicles.

36. Also on February 9, 2006, CI-1, acting at the direction of law enforcement and equipped with an undercover video recording device, entered UNITED BROTHERS FIVE's warehouse, Unit H. Before entering the facility, CI-1 said that during the previous six months, CI-1 made weekly purchases of OTP at UNITED BROTHERS FIVE's warehouse. While present at UNITED BROTHERS FIVE on these prior occasions, CI-1 observed numerous individuals come and go from the warehouse after purchasing various amounts of OTP. During CI-1's prior visits to UNITED BROTHERS FIVE's warehouse, CI-1 purchased OTP with cash.

37. On February 9, 2006, CI-1 entered UNITED BROTHERS FIVE's warehouse, Unit H, and observed approximately ten other individuals walking around UNITED BROTHERS FIVE's warehouse as they viewed dozens of cartons of cigarettes and dozens of boxes of OTP displayed throughout two aisles on shelves, pallets and the floor. CI-1 also observed individuals with hand carts loading boxes of OTP into a cargo van parked outside the dock door of the warehouse.

38. CI-1 also observed OMAR DAHLA and FARIDE DAHLA inside the warehouse. CI-1 paid OMAR DAHLA \$2,247 in cash that he/she owed OMAR DAHLA for prior purchases of OTP and \$134 in cash for the following OTP CI-1 purchased that day: (1) three cartons of Cheyenne little cigars, Menthol Flavor; (2) three cartons of Cheyenne little cigars, Full Flavor; (3) one box of

White Owl miniature cigars; and (4) one box of Swisher Sweets Strawberry cigars.¹ CI-1 paid OMAR DAHLA for the OTP while they stood inside an office within the warehouse. The office contained a file cabinet, a desk, and numerous documents scattered on top of the desk, including shipping documents from Florida. OMAR DAHLA gave CI-1 a receipt for the OTP CI-1 purchased, and the receipt was later inventoried as evidence.

39. On or about April 25, 2006, CI-1 related to the investigation that he continues to purchase OTP on a weekly basis from UNITED BROTHERS FIVE, and that he last purchased OTP from UNITED BROTHERS FIVE on April 22, 2006. CI-1 said that when he purchases OTP at UNITED BROTHERS FIVE, he pays cash to either OMAR DAHLA or FARIDE DAHLA in the warehouse office, and he has seen OMAR DAHLA or FARIDE DAHLA then place the cash in a desk drawer.

4. Utilization of OTP Sales Proceeds by United Brothers Five

a. United Brothers Five Bank Accounts

40. Analysis of records from the principal bank accounts held by UNITED BROTHERS FIVE reflect deposit activity comprised almost entirely of checks from Chicago-area retailers, with only very small cash deposits reflected notwithstanding the significant cash basis for sales by UNITED BROTHERS FIVE. Until recently, UNITED BROTHERS FIVE conducted most of its Chicago banking through a MidAmerica Bank account held in the name of Beunion. Records for that account for monthly periods covering June 2003 through January 2006 reflect aggregate monthly deposits ranging from approximately \$90,000 to approximately \$490,000. The majority

¹

CI-1 also purchased four cartons of Bronco Menthol cigarettes that contained Indiana State tax stamps.

of the deposits during the analyzed periods were comprised of checks from Chicago area retailers and consumers of OTP. Only a small amount of the deposits during this period consisted of cash. Analysis of withdrawal activity for the same period reflect most of the outflows to be devoted to payments to national or regional OTP distributors for additional product, with only a very small portion consisting of cash withdrawals, and no documented outflows devoted to the purchase of other monetary instruments, including, most particularly, money orders or cashiers checks.²

b. Structured Purchase of Money Orders with Cash

41. The investigation has developed extensive evidence reflecting the cash purchase of large quantities of money orders and cashier's by members of the Dahla family. As described further below, analysis of records for the TOBACCO ISLAND accounts at Bank of America and Washington Mutual for the period March 2004 through February 2006 reflect the deposit of in excess of \$10 million in money orders and cashiers checks issued by Chicago area currency exchanges. Clerks at several currency exchanges or money remitters in the Chicago area interviewed during the course of the investigation have specifically identified OMAR DAHLA, FARIDE DAHLA, as purchasers of large amounts of money orders during the period January 2005 through May 2006. The clerks at these locations were able to make these identifications in part because the clerks either asked for identification from them when they purchased the money orders or identified them from photos presented by agents.

² Subpoenaed records from a MidAmerica Bank account held in the name UNITED BROTHERS FIVE reflect additional aggregate monthly deposits ranging from approximately \$62,000 to \$188,000. Analysis of this account conducted to date similarly reflects that the overwhelming majority of the deposits were in the form of checks from small businesses, and the withdrawals were for payment for OTP. This account at MidAmerica bank was closed on or about April 5, 2006, and is no longer active. When the account was closed, a check for the remaining balance of approximately \$95,000 was made payable to TOBACCO ISLAND and later deposited into TOBACCO ISLAND's checking account at Bank of America in Florida.

i. Purchases By Individual A

42. Clerks identified Individual A (a relative of the DAHLAS, as indicated by identification produced) as the purchaser of money orders usually payable to TOBACCO ISLAND on at least the following dates at the following locations:

1. December 26, 2002, at a Cub Foods in Bedford Park;
2. April 19, 2004, at a currency exchange in Oak Lawn;
3. From January 2005 through April 2005 at the following locations:
 - (I) K-Mart at 11000 S. Cicero in Oak Lawn;
 - (ii) K-Mart at 9524 S. Pulaski in Oak Lawn;
 - (iii) K-Mart at 7325 W. 79th Street in Bridgeview;
 - (iv) Speedway at 5201 W. 111th Street in Oak Lawn;
 - (v) Speedway at 8000 W. 95th Street in Hickory Hills, Illinois;
 - (vi) Speedway at 6030 W. 95th Street in Oak Lawn, Illinois; and
 - (vii) Speedway at 9800 S. Cicero Avenue in Oak Lawn, Illinois.³
4. From March 4, through March 26, 2006 at the following locations:
 - (I) currency exchange at 6326 W. 95th St. in Oak Lawn;
 - (ii) currency exchange at 9524 S. Cicero Avenue in Oak Lawn; and
 - (iii) currency exchange at 8725 S. Harlem Avenue in Bridgeview

ii. Purchases By Individual B

43. Clerks identified Individual B (a relative of the DAHLAS, as indicated by identification produced) as the purchaser of money orders usually payable to TOBACCO ISLAND on at least the following dates at the following locations:

1. December 29, 2004, at a Cub Foods in Bedford Park, Illinois
2. March 24, 2005, at Scottsdale Currency Exchange in Chicago
3. March 29, 2005, at a K-mart in Oak Lawn, Illinois

³ Subpoenaed records for TOBACCO ISLAND's account at Bank of America show the deposit of 60 money orders totaling approximately \$72,305 that were purchased on March 10, 2005 from at least 21 different Chicago area currency exchange businesses. The amount of the money orders ranged from \$269 to \$2,999. Money Service Businesses, such as currency exchanges, are required to report any suspicious activity by a customer whenever one or more transactions adds up to \$2999 or more. The utilization of numerous unconnected money exchanges is one means criminals use to avoid the filing suspicious activity reports that would be triggered by the purchase of numerous money exchanges for cash at a single location.

4. April 12, 2005, at Cub Foods in Bedford Park, Illinois
5. April 25, 2005, at a Speedway in Bridgeview, Illinois
6. May 19, 2005 at Cub Foods in Bedford Park, Illinois
7. June 22, 2005, at Cub Foods in Bedford Park, Illinois
8. June 23, 2005, at Cub Foods in Bedford Park, Illinois
9. August 1, 2005, at Cub Foods in Bedford Park, Illinois

44. On August 17, 2005, surveillance conducted on Individual B as part of the investigation observed him/her visit 15 separate money remitter businesses in the Chicago area.

iii. Purchases By FARIDE DAHLA

45. On June 23, 2005, IDOR Special Agent James Lipner interviewed a clerk at a Speedway in Oak Lawn, Illinois regarding money order purchases. The clerk stated that since from early 2005 to in or around late May 2005, FARIDE DAHLA and Individual A had purchased money orders about two to three times a week.

5. Deposit of Chicago Money Orders Into Tobacco Island Florida Accounts

1. Bank of America

46. As noted, subpoenaed bank records from TOBACCO ISLAND's account at Bank of America indicate that as early as March 2004 and continuing through to the present, the DAHLAs have made structured purchases of millions dollars in money orders in the Chicago area and later depositing those same money orders in various, bundled increments throughout each month into TOBACCO ISLAND's account. Specifically, Bank of America account records for the TOBACCO ISLAND account, No. 0036 7020 3360, show a continuous, regular pattern of deposits by SAMER DAHLA comprised almost entirely of money orders purchased at Chicago-area currency exchanges and money remitters, including those surveillance and clerk information have confirmed are in fact used by the DAHLAS and/or their associates. Partial analysis of account information received to date for the aforementioned period show monthly aggregate deposits ranging just under \$600,000

on the low end to as high as \$1.9 million.⁴ As of May 17, 2006, the balance in the Bank of America account was \$146,342.

2. At Washington Mutual

47. On or about June 9, 2005, SAMER DAHLA opened an account in the name of TOBACCO ISLAND at a Washington Mutual Bank. Records from the account received by the investigation to date reflect, among other things, that for the period January 1, 2006, through January 31, 2006 show deposits totaling \$1,086,051.67 and withdrawals totaling \$877,575.13. For the period February 1, 2006, through February 28, 2006, subpoenaed bank records show deposits totaling \$1,117,675.88 and withdrawals totaling \$1,144,762.52. Further, in April 2006, a Chicago-area currency exchange provided copies of money orders recently sold to Individual A in cash transactions. The money orders reflected that they had been deposited into and cleared through the TOBACCO ISLAND account at Washington Mutual. For example, a money order purchased at the Chicago area currency exchange on April 30, 2006, was deposited into the account held in the name of TOBACCO ISLAND at Washington Mutual on May 4, 2006. As of April 28, 2006, the balance in the Washington Mutual account is approximately \$290,000.

c. Corresponding Express Courier Parcel Deliveries from Chicago to Florida

48. Investigative review and analysis of the money orders deposited to the TOBACCO ISLAND accounts at Bank of America and Washington Mutual in Florida, revealed a consistently short intervening time between the purchase date of the money orders in Chicago and subsequent date of deposit by SAMER DAHLA into the TOBACCO ISLAND accounts at Bank of America and

⁴ The aggregate monthly deposit (and withdrawal) activity in the account began to decrease in the fall of 2005. However, the drop in activity appears to reflect an increase in such banking activity in a second TOBACCO ISLAND account opened at Washington Mutual Bank by SAMER DAHLA on or about June 9, 2005.

Washington Mutual in Florida. A review of records obtained from express mail courier companies suggests that OMAR DAHLA or FARIDE DAHLA caused the money orders to be sent in bundled overnight mailings to TOBACCO ISLAND and SAMER DAHLA in Florida.

49. More specifically, subpoenaed records from Federal Express for the period January 2005 through January 2006, reflect that approximately three times a month, OMAR DAHLA or FARIDE DAHLA shipped a total of 35 overnight letter package to TOBACCO ISLAND in Florida, for a total of 35 deliveries. Subpoenaed records have revealed that during that period, BEUNION had a corporate account with Federal Express, but that the account was not used for the overnight parcel deliveries to TOBACCO ISLAND; the packages were sent in the name of BEUNION and UNITED BROTHERS FIVE and were paid for with cash. Since TOBACCO ISLAND ceased leasing the 3115 Drane Field Road, Lakeland, Florida facility, at the end of April 2006, overnight express courier parcels have been sent by UNITED BROTHERS FIVE to Main Street Tobacco in Tampa, Florida on at least three occasions.

50. By way of example, the timing sequence of the money order purchase, overnight parcel shipment, and Florida deposit is demonstrated by the recent money order referenced in ¶ 42 above. The money order was purchased by Individual A on April 30, 2006 at a Chicago area currency exchange. The money order was deposited into the Washington Mutual account of TOBACCO ISLAND in Florida on May 4, 2006. This money order purchase and deposit sequence corresponds with a Federal Express overnight parcel originating in Chicago on May 2, 2006, and sent in the name of UNITED BROTHERS FIVE to MAIN STREET TOBACCO, in Florida, where it was delivered on May 3, 2006.

On May 31, 2006, agents were notified by Federal Express that a pick-up was scheduled at UNITED BROTHERS FIVE for that evening. While on surveillance at the Bedford Park warehouse facility of UNITED BROTHERS FIVE at approximately 5:45 p.m., I observed a Federal Express truck arrive at the facility, and moments later, the Federal Express driver exited the business with a parcel in his hand. A short time later, a Federal Express representative notified me that the parcel picked-up at the Bedford Park warehouse facility was a Federal Express envelope, Tracking No 855044000247, from UNITED BROTHERS FIVE, addressed to MAIN STREET TOBACCO, at 4940-4942 Distribution Drive, Tampa, Florida.

H. OTP TAX RETURNS FILED BY UNITED BROTHERS FIVE

51. Review of the IDOR records and reports reflecting OTP sales and excise tax obligations of UNITED BROTHERS FIVE reflect fraudulent under-reporting or non-reporting by the DAHLAs. For periods prior February 2005 when it was first licensed to sell OTP in Illinois, UNITED BROTHERS FIVE (including its predecessor entities Beitunia and Beunion) did not file any reports of sales of OTP with IDOR or otherwise make payments of excise taxes owed from sales of OTP to Illinois retailers and consumers. For the monthly periods beginning with February 2005 and running through March 2006, UNITED BROTHERS FIVE, by and through SAMER DAHLA, filed OTP tax returns with the IDOR and reported the following in taxable sales of OTP and paid the following in OTP tax:

<u>MONTH</u>	<u>TAXABLE SALES</u>	<u>OTP TAX PAYMENT</u>
<u>2005</u>		
February	\$0	\$0
March	\$0	\$0
April	\$2,395.50	\$431.19
May	\$4,441.25	\$799.42
June	\$5,406.20	\$973.16
July	\$10,300.00	\$1,854.00

August	\$7,843.30	\$1,411.80
September	\$10,879.91	\$1,958.39
October	\$31,863.34	\$5,735.41
November	\$12,020.05	\$2,163.69
December	\$11,283.48	\$2,031.03
<u>2006</u>		
January	\$17,832.09	\$3209.77
February	\$9,104.57	\$1,638.90
March	\$6,314.14	\$1,136.55

For each OTP tax return filed with IDOR during this period, UNITED BROTHERS FIVE indicated \$0 in exempt, non-taxable sales of OTP and in so doing representing that all of its of OTP sales were taxable events for purposes of the OTP excise tax.⁵

52. Review of the financial institution account records of UNITED BROTHERS FIVE, as summarized above, reflect that the taxable sales reported to IDOR by UNITED BROTHERS FIVE grossly under-reported actual sales of OTP and correspondingly under-reported and therefore underpaid taxes due on those actual taxable sales of OTP in Illinois.

53. For example, in March 2005, money orders approximating \$1,364,533 were purchased by the DAHLAS and/or their associates in the Chicago area and later deposited into TOBACCO ISLAND's account. However, according to its OTP tax return filed with IDOR for UNITED BROTHERS FIVE's March 2005 report filed with IDOR by and through SAMER DAHLA on or about April 10, 2005, reported \$0 in taxable sales of OTP and \$0 in non-taxable exempt sales of OTP. Accordingly, the State of Illinois suffered a tax loss of approximately \$245,616 (based on 18% of \$1,364,533).

⁵ For the period April 2001 through March 2006, TOBACCO ISLAND reported to the State of Florida that all of its sales were exempt from the OTP tax and therefore it did not pay any OTP tax to the State of Florida.

54. Similarly, in April 2005, money orders approximating \$1,511,333 were purchased by the DAHLAS and/or their associates in the Chicago area and later deposited into TOBACCO ISLAND's account. However, according to its OTP tax return filed with IDOR for April 2005 on or about May 18, 2005, UNITED BROTHERS FIVE, by and through SAMER DAHLA, reported only \$2,395.50 in taxable sales of OTP and submitted a corresponding payment of \$431.19. Accordingly, the State of Illinois suffered a tax loss of approximately \$272,000 (based on 18% of \$1,511,333).

I. MAILING IN FURTHERANCE OF THE SCHEME

55. On or about June 28, 2005, at Chicago, in the Northern District of Illinois, Eastern Division, SAMER DAHLA, along with his co-schemers OMAR DAHLA and FARIDE DAHLA, for the purpose of executing the aforesaid scheme, and attempting to do so, did knowingly cause to be deposited, in an authorized depository for United States mail to be delivered according to the direction thereon, an envelope containing an OTP tax return for February 2005 addressed to the IDOR, P.O. Box 19019, Springfield, Illinois, in violation of Title 18, United States Code, Sections 1341 and 2.

IV. CONCLUDING ALLEGATIONS

56. Based on the foregoing, there is probable cause that evidence of the mail fraud scheme is located in the following locations:

- a) a business, UNITED BROTHERS FIVE, consisting of an office and two warehouses at 5301 W. 65th Street, units H and J, Bedford Park, Illinois; and

b) a Federal Express envelope, Tracking No 855044000247, from UNITED BROTHERS FIVE, addressed to MAIN STREET TOBACCO, at 4940-4942 Distribution Drive, Tampa, Florida, as described more fully in Attachment A-2.

57. Based upon the foregoing, there is probable cause to believe that OMAR DAHLA, FARIDE DAHLA, and SAMER DAHLA have participated in a mail fraud scheme to defraud the State of Illinois of OTP excise taxes from at least January 2005 through at least February 2006

58. Based upon the foregoing, there is probable cause to seize the following:

a) a checking account, held in the name of TOBACCO ISLAND, at Bank of America, Account No. 003670203360;

b) a checking account, held in the name of TOBACCO ISLAND, at Washington Mutual, Account No. 185-125526-6; and

c) OTP stored at UNITED BROTHERS FIVE

constitute or are derived from proceeds of mail fraud in violation of 18 U.S.C. § 1341 and are thus subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(c) and 28 U.S.C. § 2461(c); and further, constitute property involved in money laundering in violation of 18 U.S.C. §§ 1956 & 1957 and thus

are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(c) and 28 U.S.C. § 2461(c), as well as 18 U.S.C. § 982(a)(1).

FURTHER AFFIANT SAYETH NOT.

Daniel Durkin
Special Agent
Bureau of Alcohol, Tobacco, and Firearms

SUBSCRIBED AND SWORN TO BEFORE ME
This 1st day of June 2006

JEFFREY COLE
United States Magistrate Judge